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Attorneys for Defendants  
*C. R. Bard, Inc. and*  
*Bard Peripheral Vascular, Inc.*

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

DARYL BOND,  
  
Plaintiff,  
  
v.  
  
C. R. BARD INC., and  
BARD PERIPHERAL VASCULAR, INC.,  
  
Defendants.

Case No.: 1:20-cv-00444-DAD-BAM

Honorable Dale A. Drozd  
Honorable Barbara A. McAuliffe

**JOINT MOTION TO STAY  
DISCOVERY AND ALL PRETRIAL  
DEADLINES & ORDER**

Pursuant to Federal Rule of Civil Procedure 26(c) and (d), Plaintiff in the above-titled action and Defendants C. R. Bard, Inc. and Bard Peripheral Vascular, Inc. (collectively, “Bard”) (Plaintiff and Bard are collectively referred to herein as “the Parties”), respectfully request that this Court temporarily stay discovery and all pretrial deadlines and continue the upcoming Scheduling Conference in this case for 60 days after entry of the [Proposed] Order while the Parties pursue settlement discussions. In support thereof, the Parties state as follows:

1. This case was part of the multidistrict litigation proceeding known as *In re: Bard IVC Filters Products Liability Litigation*, MDL 2641, pending before the Honorable David G. Campbell of the District of Arizona.

2. After four years, the completion of general issue discovery, and conducting three bellwether trials, Judge Campbell ordered that cases, which have not settled or are not close to settling, be transferred or remanded to the appropriate jurisdictions around the country for case-specific discovery and trial. As a part of that process, he established a “track” system, wherein certain cases were placed on tracks either to finalize settlement paperwork, continue settlement negotiations, or be remanded or transferred.

This case was transferred to this Court on March 27, 2020 (Doc. 6). Since that date, the Parties have engaged in serious settlement discussions and are hopeful that this and the other cases in Plaintiff’s counsel’s inventory will resolve at a mediation scheduled for July 10, 2020. To facilitate those discussion, the Parties and their counsel have agreed to “stand down” until at least August 12, 2020 while they pursue settlement. The parties will provide the court with a joint status report no later than July 17, 2020 advising of the status of the negotiations.

3. A district court has broad discretion over pretrial discovery rulings. *See, e.g., Crawford-El v. Britton*, 523 U.S. 574, 598 (1998); *accord Thermal Design, Inc. v. Am. Soc’y of Heating, Refrigerating & Air-Conditioning Engineers, Inc.*, 755 F.3d 832, 837 (7th Cir. 2014); *Burns v. EGS Fin. Care, Inc.*, No. 4:15-CV-06173-DGK, 2016 WL 7535365 at \*1 (W.D. Mo. Apr. 12, 2016); *see also Cook v. Kartridg Pak Co.*, 840 F.2d 602, 604 (8th Cir. 1988) (“A district court must be free to use and control pretrial procedure in furtherance of the orderly administration of justice.”); *see also CMAX, Inc. v. Hall*, 300 F.2d 265, 268 (9th Cir. 1962) (district courts possess

1 “inherent power to control the disposition of the causes on its docket in a manner which will  
2 promote economy of time and effort for itself, for counsel, and for litigants”).

3 4. Under Federal Rules of Civil Procedure 26(c) and 26(d), a court may limit the scope  
4 of discovery or control its sequence. *See Britton*, 523 U.S. at 598. Although settlement  
5 negotiations do not automatically excuse a party from its discovery obligations, the parties can  
6 seek a stay prior to the cutoff date. *See Sofo v. Pan-American Life Ins. Co.*, 13 F.3d 239, 242 (7th  
7 Cir. 1994); *Wichita Falls Office Assocs. V. Banc One Corp.*, 978 F.2d 915, 918 (5th Cir. 1993)  
8 (finding that a “trial judge’s decision to curtail discovery is granted great deference,” and noting  
9 that the discovery had been pushed back a number of times because of pending settlement  
10 negotiations).

11 5. Accordingly, the Parties jointly move this Court for an order staying discovery and  
12 pretrial deadlines and continuing the upcoming Scheduling Conference in this case for 60 days  
13 after entry of the [Proposed] Order to allow the Parties to conduct ongoing settlement discussions,  
14 after which the Parties will file a stipulation of dismissal or will submit a joint statement reporting  
15 on the status of settlement. The requested relief will facilitate settlement efforts and prevent  
16 unnecessary expenditures of the parties and judicial resources.

17 6. The Parties agree that the relief sought herein is necessary to handle the case in the  
18 most economical fashion, yet allow sufficient time to schedule and complete discovery if  
19 necessary, consistent with the scheduling obligations of counsel. The relief sought in this Motion  
20 is not being requested for delay, but so that justice may be done.

21 **WHEREFORE**, The Parties jointly request that discovery and all pretrial deadlines be  
22 stayed and that the upcoming Scheduling Conference be continued for 60 days after entry of the  
23 [Proposed] Order to allow the Parties to conduct ongoing settlement negotiations.

24 [Signatures on the following page]

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1  
2 DATED: June 16, 2020

Respectfully submitted,

3 NELSON MULLINS RILEY & SCARBOROUGH LLP

4 /s/ Matthew B. Lerner

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C. R. Bard, Inc. and Bard Peripheral Vascular, Inc.

9  
10 DATED: June 16, 2020

Respectfully submitted,

11 GOLDMAN SCARLATO & PENNY, PC

12 /s/ Melissa Fry Hague (as authorized on 6/15/20)

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Attorney for Plaintiff

Daryl Bond

**FILER'S ATTESTATION**

The undersigned filer attests that, pursuant to Civil L.R. 5-1(i)(3), concurrence in the filing of the document has been obtained from the other signatory to this document.

By: /s/ Shawtina F. Lewis  
Shawtina F. Lewis  
Attorney for Defendants  
C. R. Bard, Inc. and  
Bard Peripheral Vascular, Inc.

**ORDER**

Having considered the parties' stipulation, and good cause appearing, the Court hereby GRANTS the parties' request. The Initial Scheduling Conference currently set for July 22, 2020, is hereby continued to **September 16, 2020 at 09:00 AM in Courtroom 8 (BAM) before Magistrate Judge Barbara A. McAuliffe**. All discovery and pretrial deadlines in this action are hereby stayed until the Initial Scheduling Conference. The parties shall file a Joint Scheduling Report in full compliance with the requirements set forth in the Order Setting Mandatory Scheduling Conference at least one (1) full week prior to the Scheduling Conference. (*See* Doc. Nos. 7, 18.) The parties may appear at the conference by telephone with each party using the following dial-in number and access code: ***dial-in number 1-877-411-9748; access code 3219139***. If the parties file a notice of settlement prior to the conference, then the conference will be vacated. However, if the parties are unable to reach a settlement, then the conference will proceed.

IT IS SO ORDERED.

Dated: **June 16, 2020**

/s/ Barbara A. McAuliffe  
UNITED STATES MAGISTRATE JUDGE